

Montana Transportation Commission

August 3, 2006 Meeting

Anaconda Community Center

118 E 7th Street

Anaconda, MT

IN ATTENDANCE

Bill Kennedy, Transportation Commission Chair

Kevin Howlett, Transportation Commissioner

Rick Griffith, Transportation Commissioner

Jim Lynch, MDT Director attended by phone

Jim Currie, MDT Deputy Director

Tim Reardon, MDT Chief Counsel

Loran Frazier, MDT Chief Engineer

Dwane Kailey, MDT District One Administrator

Lori Ryan, Transportation Commission Secretary

Janice Brown, Division Administrator FHWA

Mike Duman, Assistant Administrator FHWA

Please note: the complete recorded minutes are available for review on the commission's website at http://www.mdt.mt.gov/pubinvolve/trans_comm/meetings.shtml. You may request a compact disc (containing the audio files, agenda, and minutes) from the transportation secretary Lori Ryan at (406) 444-7200 or lrayn@mt.gov. Alternative accessible formats of this document will be provided upon request. For additional information, please call (406) 444-7200. The TTY number is (406) 444-7696 or 1-800-335-7592.

OPENING – Chairman Bill Kennedy

Chairman Bill Kennedy called the meeting to order at 8:30 a.m. After the pledge of allegiance, Commissioner Howlett offered an invocation.

Chairman Kennedy introduced everyone in attendance and noted that Nancy Espy and Deb Kottel were not able to attend. Chairman Kennedy then went over the Agenda. It was noted that Our Lady of the Rockies had cancelled their appearance before the Commission. Chairman Kennedy stated that if anyone showed up who wanted to make public comment on Our Lady of the Rockies, the Commission would make time for them to speak.

Agenda Item 1: Minutes from the Past Meeting.

Chairman Kennedy went over the minutes from the June 29, 2006, Commission Meeting. It was noted there was a typographical error in the section about projects referencing page 9 – increased cost for projects, the conversation was about bridge decks in St. Regis not St. Ignatius.

Commissioner Griffith moved to approve the minutes of June 29, 2006 Commission Meeting as amended. Commissioner Howlett seconded the motion.

The motion passed unanimously.

Agenda Item 2: Resolution – Robert E. Ewing, Jr. Memorial Highway

Tim Reardon stated that at the last meeting the Commission agreed to designate that portion of the highway from Park City to Columbus as the Robert E. Ewing Highway. Mr. Ewing being a long-time employee of the Montana Department of Transportation and actually was the project manager for those sections of the interstate and did receive some awards for that. He stated that the Commission felt that since this was the 50th Anniversary of the completion of the Interstate System it was appropriate to honor his commitment and dedication to Montana's highway system. Mr. Reardon drafted a Resolution and stated that it was in draft stage and could be edited or changed as the Commission felt appropriate and once changed he could formulate a final draft to be signed by the Commission.

Chairman Kennedy read the Draft Resolution for the record:

WHEREAS the National Interstate Highway System is celebrating its 50th Anniversary in 2006; and

WHEREAS the completion of the Interstate Highway System has been recognized as a significant achievement from a construction and engineering standpoint; and

WHEREAS the nation, including the State of Montana, has benefited greatly by the completion of the Interstate System within the State of Montana; and

WHEREAS the successful completion of the Interstate Highway System in Montana was only accomplished through the energy, spirit, leadership, and commitment of the employees of the Department of Transportation; and

WHEREAS Robert E. Ewing was employed by the Department of Highways in a career spanning over 50 years from 1947 to 1997 and during his career starting as a temporary worker and eventually through diligence and effort rising to the level of Chairman, Rodman, and Resident Engineer, Project Manager, and ending his career as a Construction Reviewer; and

WHEREAS during his career his efforts were recognized by twice receiving awards for his work as a Project Manager during the construction of I-90 from Park City to Columbus as well as the Project Manager of the construction of the I-94 from Huntley to Valentine; and

WHEREAS during his career Robert and his wife Mildred raised their family and accomplished his work moved their residence 39 times; and

WHEREAS the Montana Transportation Commission wishes to honor the commitment and accomplishments of the dedicated public servant whose work was instrumental in helping Montana's interstate highway construction program to successful completion.

NOW THEREFORE BE IT RESOLVED that the Montana Transportation Commission hereby designates that portion of the Interstate Highway 90 from Park City to Columbus Montana the Robert E. Ewing Memorial Highway, and further directs the Department of Transportation to erect appropriate signs identifying the Robert E. Ewing Memorial Highway.

He stated that this would be a draft that included all five Commissioners. Mr. Kennedy said it included all aspects of what the Commission talked about in Red Lodge and asked if there were any comments. Mr. Kennedy asked if this were adopted as the Final Resolution if it could be brought back to the next meeting. Mr. Reardon stated it could be brought to the next meeting for signatures. Mr. Kennedy asked if a member of the family could be in

attendance when the Memorial Sign was put up. Mr. Lynch agreed and said he would find a time that would be convenient for them to attend.

Commissioner Howlett moved to adopt the Resolution. The motion was seconded by Griffith.

The motion passed as unanimous.

Agenda Item 3: Letting Lists

Loran Frazier passed around the Letting list and noted there were some changes from last time. He stated the projects for July and the rumble strips at Big Sky North we had no bidders. That project was moved and added into the August letting which will be reflected on the other sheet that was passed out. So that would be a change to the August letting. Then the other project which the Department did not accept bids for was the sidewalks at Fox Farm. That project will be added this fall to a larger sidewalk project in Great Falls. The Department is still discussing that with the District Administrator Mick Johnson.

He stated there were a couple of projects that were included in August at the last Commission meeting. Three of those are the same except Lone Pine Wetland which we kept on our list so that we keep it scheduled. Lone Pine Wetland is actually a tribal letting so we removed it from August 17th because we will not be advertising that ourselves, it will be advertised by the Salish Kootenai Tribe. Another project that was in August was D5D4 Culverts and those were moved into September. Those are the changes from the last meeting for the remainder of this fiscal year up to September.

The lettings for November and December include a lot of projects, about sixty-seven million worth for November and about forty-seven million worth in December. That list may change depending on how much federal money gets authorized for this fall. Staff would recommend that the Commission approve the Letting List.

Commissioner Kennedy asked Mr. Frazier if the idea was to try to push as many projects out by the 1st of the year as possible and that was why the majority of them are in November and December. Mr. Frazier answered yes. Chairman Kennedy asked as the Commission goes through the Red Book in October and November, will they have to meet that? Mr. Frazier stated there may be some adjustment to the Red Book and it will remain a little fluid depending on how much federal authorization the Department gets and if they have the mechanism or ability to do that. It was asked if on the rumble strips at Big Sky if he had any kind of inclination whether they would get a bidder this time. Mr. Frazier stated that they made phone calls to all the bidders in the area and they indicated they would bid in August. Most bidders stated the reason they didn't bid was because they were busy this summer and would have a bid prepared for next time. He was asked if it was still to be finished this year. Mr. Frazier stated they were trying to get it this year.

Commissioner Howlett moved to approve the Letting list as submitted by staff. The motion was seconded by Griffith.

The motion passed unanimous.

Agenda Item 4: Certificates of Completion

Loran Frazier handed out the Certificates of Completion for the month of June. The total amounts to about \$13.7 million. We would ask the Commission to approve them. Notice there is a difference between the original contract amount of \$12.5 million and \$13.6 million, the majority of that money can be put into two projects on that list. One of them is the CTEP project doing repairs at the Capital. That one came in close to \$300,000 larger than the award amount. The other one was for Summers East project which was a connection between Somers and MT 35 at the north end of Flathead Lake. When they were under construction they ran into some conditions that needed more extensive subgrade work than originally planned on, so that one was about \$700,000 more than the award amount due to a couple of large change orders. Staff would recommend approval of the Certificates of Completion for the month of June. Mr. Frazier was asked if the CTEP project for the capital steps had enough CTEP money coming in to cover it. Mr. Frazier answered yes.

Commissioner Howlett moved to adopt the staff recommendations. The motion was seconded.

The motion passes unanimous.

Agenda Item 5 Project Change Orders

Loran Frazier stated that change orders for the month of June totaled about \$1.9 million; \$1.2 million is in District One. Mr. Frazier went through each changer order as follows:

7 km East of Frenchtown Interchange

This is the interstate project from Missoula towards Frenchtown and the interchange with Hwy 93. This change order is to accommodate a typical section or a design where the Department has done a crack and seat in the asphalt at the bridge ends where we've milled into the concrete. This design has been used successfully in all the projects that we did crack and seals on in the state in the last three years around Bozeman. We got into Missoula and we were having pavement failures so we had to go in and do some adjustments to the subgrade and in other cases we actually overlaid the bridges and added some thickness. This caught all of us by surprise. It is one of those that we have used successfully on six other projects but the conditions in the Missoula area just did not work so that was to fix that. That is the large one.

Weeksville West Project

This is a \$200,000 change order on the Weeksville West Project where we've had a lot more rock excavation, which increased the quantities of air traffic control and everything else that goes along with having a contractor working in one spot longer. Those were the large ones in District One. We have quite a few zero dollar change orders.

Safety Project West of Missoula

We have a couple of decreases -- \$1,000 for delineators on a safety project west of Missoula where we didn't need as many delineators as they thought. We put the extra delineators in our stockyard.

Buxton North and South – District Two

We had a decrease of \$34,000 because we used a little less plant mix on some dig outs than what we had planned on.

Sportsman Campground East – District Two

This is a \$40,000 change order which had to do with driving bridge piles for the bridge ends. When you build a bridge you drive piles into the ground to where they quit moving. There were some errors in the plans and we are pursuing it through an errors and omission on the capacity of the piles. They were incorrect and we ended up using twice as long of piles as what they showed in the plans for a \$40,000 change order.

Main & Jack Rabbit Lane – District Two

This is a \$48,000 change order on Main and Jack Rabbit Lane in Belgrade. We changed the typical section due to unstable material found under the existing pavement.

District Three

We have quite a few zero change orders and smaller ones addressing quantities. The only substantial one that we had in District Three was a \$29,000 decrease. That was eliminating seal and cover on a small project in the canal and we will add that on a larger project that is going to be right next to it.

North of Havre North – District Three

This is a \$70,000 change order on North of Havre North. That has to do with traffic control running at a reduced price for the amount of the planned quantity.

Glendive -- District Four

This is a \$210,000 change order to resolve the change in grade of asphalt and to resolve a contractor's claim.

Chairman Kennedy asked a question regarding the sentence "the asphalt resolves the contractor's claim for additional costs incurred because paving was not possible in 2005 so

he was delayed in receiving environmental permits.” He asked who issued the environmental permits. Mr. Frazier stated in this case it was a delay in receiving the 404 Permit from the Corp of Engineers. Chairman Kennedy asked if the Department is at the mercy of waiting for those permits to come in. Mr. Frazier answered yes and explained that the Department’s time clock was delayed from the fall because the contractor was not able to start in the fall as planned and was not able to start until the next spring. Chairman Kennedy asked if the Corp of Engineers delays a project like that on an environmental review and it pushes the project back and costs the department \$10,000, is there any way to go back and ask for some type of dollar compensation from another agency. Mr. Lynch stated they could do that but explained that some of the problems may not just be the Corp’s fault and it may have been a design issue, or something the Department of Transportation did. He explained that if we are being unjustly delayed because someone isn’t doing their paperwork, the Corp of Engineers has a timeframe they have to abide by too, and if that is the case then we could ask for compensation. He stated he did not know the details on this project but he would find out why it did take so long and report that back at the next Commission meeting. Loran Frazier stated that his understanding was that the Department gets our permit for the permanent features then there is the contractor’s work permit and that was slow in coming. The contractor submitted his work plan and did not get approval back in a timely manner on this one. He stated the Department also changed the grade of asphalt on that project but he did not have the breakdown of the dollars. He stated he received a phone call that morning about this change order No. 2 and another item came up that also resolved something to do with asphalt and they are looking at the possibility of voiding this change order and replacing it with a future one so we will have a chance to discuss this whole issue again.

Jim Lynch said this is a problem the Department has and it is not just isolated to one agency. We’ve been working between all the federal agencies in the state to come up with a best practices type forum to get the agencies to look at these projects on an earlier timeframe than they do because this happens a lot. We get up to the point where we are ready to bid and we don’t put projects out unless we’ve got all the permits. It is a problem. He stated he would like to look into the reasons why it took so long to get that permit because the Highway Commission should know all the circumstances around that.

Mike Duman stated that Director Lynch is absolutely right. We’ve followed this road several times trying to find out where it happens and generally there is enough blame to go around for a lot of different individuals. It is rarely just one person or one agency. Agencies have requirements in terms of when their clock starts ticking in terms of responding back to us and they may not start their clock because they don’t have all the information and we think they do. But it does help to do a little forensics on these things from time to time to make sure we are not letting things slip through the cracks.

One of the Commissioners stated they looked at the Sportsman Campground project and everybody in the van was convinced that it probably wouldn’t be finished this year. I don’t think that was the intent when it was let. I would like to know if there is something we can do to make sure ... because I’ll bet we are sitting here next year looking at a change order for winter maintenance even though it was supposed to be covered in the contract. It would be cleaner if we can get those projects out and awarded so they can be finished in the construction season.

One of the Commissioners stated that one thing they could do was to make sure those large reconstructs were let early in the year so the contractor's have the entire season to work on them. However some of those projects just can't be done in one year. I appreciate your comments about the winter maintenance but I don't believe I've ever seen a change order come through asking for additional money for winter maintenance. So I think the greater risk is not the change order it is the road isn't going to be maintained to the satisfaction of the public when it is left open for the winter. That is a challenge. I know the Director has put the guideline out that wherever possible projects get buttoned up for the winter. One of the things we are going to try and do in Sportsman Campground is not just have gravel or dirt down but actually try and tighten up by applying some oil to it.

District Five

In District Five the largest one is a \$216,000 change order where we changed the plans from asphalt grade from 6428 to 7028 due to temperatures and performance of 6428 on a recent job. The Department felt since it was an interstate project they wanted the higher oil to combat rutting in the higher temperatures down around the Hysham area.

Commissioner Kennedy asked Loran if there were any change orders for Hwy 312 between Highway 87 and the Huntley Bridge. Loran Frazier said he was not aware of any. Commissioner Kennedy stated they would have it on the Agenda for the next Commission meeting to receive more information on the project.

Commissioner Howlett moved that the Commission adopt the Change Orders for June in the amount of \$1,959, 544.88. The motion was seconded by Griffith.

The motion passed unanimous.

Agenda Item 6: Liquidated Damages

Loran Frazier stated they had two projects with liquidated damages. The first one is Half Breed Creek – 120 km South of Roundup with Winkler Construction. Staff recommends assessing one day at \$967.00 per day in liquidated damages. The contractor did agree at the final inspection to the amount of liquidated damages shown on the project.

The second one is Wibaux North and South – 14 km North of Wibaux with Border States Paving from Fargo, North Dakota. They overran contract time by 22 days. The contractor responded with a request to waive 14 days. We reviewed the time assessment and we agreed that three days could be waived. Our recommendation is to 22 days at \$1,781 per day for \$39,182.00. Loran stated that the Department sent Border States their decision on April 27, 2006. They had thirty days to respond and we received no response from them.

Commissioner Kennedy stated there would be no action on that. It will stand.

Agenda Item 7: Public Comment

Commissioner Kennedy asked if there was anyone to give public comment, to please come forward and state their name.

Brad Flategraff, Gallatin Gateway

Brad Flategraff addressed the Commission and made the following statement. Currently there is a project underway at Gallatin Gateway to realign Highway 191 with Gateway South and Raybol Lane. That project started many years ago when we were putting in a walking path along side U.S. Hwy 191 so the school kids could be able to get down to school. The U.S. Post Office used to be in down town Gallatin Gateway and they moved their location to the east side of U.S. Hwy 191 on Raybol Lane. Raybol Lane is a public road but it goes into a private subdivision which the Post Office leases that property. On this realignment project, they are realigning the street and as part of the easement process they are paving a portion of Raybol Lane about two hundred plus feet to the east. The remainder of that roadway, which is about 197 feet to the entrance to the Post Office is going to remain gravel road. Every year when it rains or snows there are potholes that won't quit. The community has tried numerous times to get the Post Office to anti-up and try to do something because when they leased the property they should have done something with the roadway. There have been letters, petitions, and I have a letter that came from the postal service back in 1999 that said if the homeowners association for that private subdivision would be willing, they would help out with the cost. This project of realignment is going forward and they are within two weeks of being able to pave that roadway and now would be the time to try to finish the other 197 feet.

I talked to several people, the project manager Mr. Rehberg and he said that the dollars that were available for that project basically are used up. I talked to the engineer that is working with the contractor, A.M. Wells, and asked him if the private community wanted to kick in money to be able to get that last 197 feet paved what would it cost. He said that to grade it, put down a mix, and to compact it and put a four inch asphalt surface like they are going to do on the rest of the road, would run the public approximately \$10,000. If we don't get it done now, then it will probably never get done. I've contacted both Conrad Burns' office and Max Baucus' office and they are trying to work with the postal people in Washington D.C. to see if they wouldn't be willing to do something. But with this short-term two weeks the only other option that I had was to come here and see what could be done. That is all I have.

Commissioner Howlett asked who owned the property. Mr. Flategraff said they call it Minor Subdivision 56 and there are five land owners. One of them is Big Timber Works; one is the Gateway Market, Exxon. The couple that owns the property the Post Office is on lives in California. They have been contacted and the Postmaster said they would be willing to kick in their share of whatever it would cost to get it done. Then there are two other property owners that live back in that area.

Commissioner Kennedy asked if all five of those property owners have been notified. Mr. Flategraff said yes they were all aware of what is going on. Commissioner Kennedy asked if

they were willing to kick \$2,000 each. Mr. Flategraff said some of them say they would like to kick in and get it paved and the others think if it was paved it would just be a drag strip. It is coming off the main highway and their property is past the Post Office, and the issue is that we would like to get it paved from Hwy 191 to the entrance of the Post Office. It was an easement issue. The two that are being helped already are Big Timber Works who is right on Hwy 191 on the northeast corner and on the southeast corner is the Gateway Market. So that 200 feet comes in front of their businesses. The other 197 feet is just there. So I don't know if there is something that can be done with that or not.

Jim Lynch stated he had conversations with the Chairman of the Gallatin County Commission John Vincent. We have been trying to see if there is something we can do. There are a lot of issues with that roadway and I don't think there is any decision the Commission can make today. It is not a state highway; from my understanding it is not a county roadway either. John Vincent talked about different ways the county can participate as well as working with the U.S. Post Office. We are working on that issue now to see how it can be done. It is such a simple little addition to a project, you wonder why it is such a big problem. Due to the nature of the roadway, that type of roadway lends itself to some issues particularly when you use state and federal funding on projects. So we are trying to see what we can do to resolve this and get that last 160 feet paved. Commissioner Kennedy asked if they were looking at it right now. Director Lynch said yes that John Vincent had brought it to their attention about one week ago and asked the Department to sit down and analyze it to see what could be done from a state standpoint and also looking into a joint effort between the landowners, the Post Office, the State, and the county. Chairman Kennedy asked if it was a private road. Mr. Flategraff stated it was a public road that goes into a private subdivision. Chairman Kennedy asked who had the responsibility now. Mr. Flategraff said the subdivision homeowner's association is responsible for Raybol Lane. At one time the Post Office wrote them a letter and said they had been petitioned and it was a safety factor, it was a hazard to the public, and you need to respond to us and let us know what you are planning to do with this roadway. The Gallatin County Commission got involved in 2000 and said according to the Montana codes the roadway had to be brought up to par and asked what the plans were. What they ended up doing is twice a year they hire a private person to come in and grade the road, if it needs a little bit of gravel on the roadway he throws it on and smoothes it out. There is a drainage issue there and the next time it rains it just washes that gravel right down and it ends up at where Raybol Lane meets Hwy 191 and then it pits out right underneath the roadbed for Hwy 191. There are times when you can drive down there and your front wheels will fall into the hole from Raybol Lane Hwy 191 and you will bottom out before you can get onto the U.S. highway.

A Commissioner asked if the county accepted any responsibility for maintenance. Mr. Flategraff said no, the county at one time said it was not their problem but they would come out there and fix that issue. So they did, and they filled in right where it met Hwy 191.

Commissioner Howlett said the real issue is the eligibility for funds to be put on this road if it is a private road. Commissioner Griffith asked if there was a consensus with the homeowners association as to what to do? Mr. Flategraff said that in 1999 three out of the five owners said they wanted to do it and two were worried that it would be a turned into a raceway because of the paving. Chairman Kennedy asked in order to finish the last 160 feet it will cost \$10,000? Mr. Flategraff said that is what the engineer for A.M. Wells said.

Chairman Kennedy said they would give the problem back to Director Lynch and the Department, and stated that as long as the Commission had Mr. Flategraff's name and phone number they would get back to him this week. Director Lynch said John Vincent has been trying to find ways to resolve this. It is a bad situation because it is not a county or state highway in any way shape or form but it does serve as a U.S. Post Office so it does have some significance. So we need to look at it and see where it is we can help the situation.

Commissioner Howlett said that the Commission needed to be a little bit cautious in making any kind of overtures toward using resources on private roads even if it is staff time dedicated to that because we are putting ourselves in a little bit of a difficult position. It goes back to some earlier discussions that when people do these subdivisions, they need to take the responsibility of what goes with those subdivisions and not come back to the public trust and ask that it be done for them. While I appreciate the concerns that are there, those lots probably sold for a considerable amount of money.

Commissioner Kennedy asked if there was any other local government comment.

Agenda Item 8: Communication with Local Government

Chairman Kennedy asked if there were any government officials that would like to speak to the Commission.

Mill Creek Road – Anaconda-Deer Lodge County

Connie Daniels, District Four County Commissioners for Anaconda-Deer Lodge County addressed the Commission. I'd like to welcome you all here in Anaconda-Deer Lodge County and I hope your days of meetings are fruitful and you are enjoying your time here. We are happy to have you here. We have a couple of folks from Anaconda-Deer Lodge County here and we would like to discuss some of our issues a little bit further with you. She then introduced their Chief Executive Officer Becky Guag.

Becky Guag prepared a letter for the Commission which she passed to each member. I want to thank you for meeting here in Anaconda this time, we really appreciate you being here this morning and meeting here and enjoying Anaconda-Deer Lodge County and all of our various roads in their various conditions. I'm here today to discuss is the Mill Creek Highway and I understand you had a little tour of the highway way yesterday. As you know it is a vital transportation corridor for Big Hole Valley residence to obtain services from Anaconda – medical services and that sort of thing. It is also a vital access to numerous recreational activities both in the summer and in the winter. Through the Big Hole Valley we have the Big Hole River, the trout stream, the Big Hole Battle Field, and the Mount Hagan Recreation Area. This road is really heavily used. Lots of recreational vehicle traffic and an awful lot of vehicles towing trailers. As you probably noticed the road is quite narrow in places, it doesn't have shoulders, and it also is not striped very well. That just exacerbates the problem of the holes in the road – we do have some potholes and our street

crew tries valiantly to keep that road maintained and fill some of those holes, but we are fighting a losing battle and our resources are very, very limited here in the county.

You might be aware that about a year and a half ago the county found itself in a severe financial crisis and as a result laid off a number of staff persons including staff from the road department. Right now we have one working supervisor, Larry Sturm who will speak with you a little later, and four road crew members who maintain all of the roads in Anaconda-Deer Lodge County – the city streets, the county roads, both winter and summer. It is almost too big of a job for them to keep up with when you add the Mill Creek Highway and all of its needs into the mix.

It is a very narrow road and the recreational vehicles ... I'll tell a personal story if you don't mind. I moved back to Montana in January after an absence of about twenty years. Two weeks ago I had the opportunity to travel over the Mill Creek Highway at night. Talk about a scary experience and I'm used to driving California Freeways with six lanes of traffic every direction. Mill Creek Highway at night is really quite frightening. It is difficult to see the edges of the road; it was difficult to see if you were going down the middle of the road, the potholes, deer on the road, cows on the road and it was really quite scary. I'm concerned about the safety of our residence and visitors who come here and utilize that road to get to the various recreational activities. With that I'd like to thank you again for being here and I'd like to have our Road Supervisor Larry Sturm make a few comments about the maintenance issues.

Larry Sturm addressed the Commission as follows. I'm a Road Supervisor; I'm just a seat of the pants guy and not an engineer by any means. If you did travel this road, you are probably trying to figure out where we did the work on it. I'll give you a few figures, for gas tax alone we received approximately \$42,000 per year for all of the roads in the county, which we have 444 roughly. That figures out to roughly \$94.00 per mile per year for maintenance just on gas tax on that road. To date I have spent about \$15,000 in just doing the blade patching and the hand patching and it is not even making a dent in it. By the time the winter rolls around we will have to go back and redo some of the stuff because we are just doing blade patching. We currently have five people in the road department including me. We are responsible for the maintenance on all city/county roads, streets, alleys, plus the maintenance on the sewer line. We do that with five people. Our total budget in the general fund is roughly \$385,000, out of that we also run the shop which is responsible for all the maintenance. We are extremely limited in our resources and I have to juggle where I am going to spend the money because we have other county roads that need patching and are in need of a lot of repairs. We have a 22-mile stretch – the Mill Creek Highway which can be very, very expensive in the wintertime because of the blowing and drifting snow. We have in the past closed that road down because we couldn't keep it open but with the increase of people living out there and moving out there, we have to keep that road open 24-hours per day and it can really be a problem at times. In the summertime it is not as bad as the winter because of the drifting snow. I don't know what else I can tell you. Whatever help you can give us we will gladly accept.

Connie Daniels added another comment. We really believe this is a vital road in our community and realize it is a major undertaking. It is impossible for the county and would be a major undertaking for the state. Preliminary estimates on rebuilding, repairing Mill

Creek Highway are about \$25 million. Our county has had discussions with Senator Baucus' office and hopefully with Senator Burns to look at a special appropriation to assist the State in this endeavor. We've suggested a special appropriation in the amount of \$18 million to assist in this project and we are trying to shepherd that project along. Hopefully those efforts will yield something. We know the State has about \$7 million set aside for this project. We think with these efforts we could put the funds together to get this done. We would like you to know we are trying to do our part and we would appreciate any help we can get from our congressional people on it.

Commissioner Howlett said he traveled over that highway yesterday and said it was not unlike a lot of roads in Montana unfortunately. I understand a little history of it but by no means all of it – it was a state road at one time and then turned over to the county. There was an overlay done for several miles which is noticeably better than the part not done. I'm just curious about what might be available through partnerships or what might be available to the county to just get some basic maintenance done on that road. I'm trying to be realistic in looking at special appropriations and there is a lot of discussion in Congress about eliminating earmarks to do those kinds of things. As long as we've got the trouble in the middle-east there is probably not a whole lot of money that is going to be diverted to domestic programs whether it is health care or transportation. That is just reality. So in the interim before we begin to have a number of casualties or fatalities, what might be possible? Let's think out of the box a little bit and look at recognizing that it is now a county responsibility but we're accommodating a lot of the citizenry of the state so how can we begin to think about doing just some safety improvements?

Deputy Director Currie stated it is important to go back on the history of this road. I don't remember the circumstances under which the state gave it back to the county. I've traveled that road ever since I was a kid and the road is not a lot different today than it was then other than the trees are higher. About five or six years ago Senator McCarthy approached us about putting that road on the system as a secondary highway again. We supported that and in fact the Commission did that. The condition under which that was done was (1) the county would continue to maintain it until it was reconstructed. The reasons we did that is because we have such a massive maintenance system now that we have to support with limited funding, and (2) the city/county needed to make that their number one priority for them in terms of the selection process for secondary projects and they did that. As a matter of fact, the funding you were talking about is a project that is coming up maybe a year or two out. In terms of what kind of partnerships you can do, if you drive that road there are safety issues all over it, so how do you put safety funds out there and where to you put them and in what form. There are no easy answers for that road. Secondary funding is driven by state law in terms of how the selection process works and then the available funding and the allocation funding by financial district. So it is hard for us to sit here and say there is anything we can do to help with the maintenance of that road.

Director Jim Lynch stated that it was just a couple of years ago when U.S. Department of Transportation said we needed \$386 billion in the Highway Trust Fund just to maintain the system we have. That is not to add capacity; it is just to maintain what we have. We ended up with about a \$290 billion bill so that \$100 billion short. That money is given out to the states and the states are then faced with the same thing if they have demands much more than their current funding capacity. Then it works its way back down to the counties and

how the gas tax money is distributed to the counties. The common denominator in all of this is we need to look at different ways of funding highways than just through trust funds and the funds we receive through our gas taxes because our needs and the requirements of the State of Montana are going to far exceed the number we are going to get from the federal government. It creates a problem. I sympathize with the county and the small cities. We are all in the same boat – we've got hundreds of millions of dollars worth of projects out there that we could put to bid if we just had the revenue to do it. There is no easy answer. Commission Kennedy is going to be sitting on a committee with others throughout the entire United States trying to determine how we fund our highway system into the future and I'm sure you are going to be thinking a lot of out of the box in that process.

There are communities that have been very successful in passing impact fee legislation to address some of the short falls. Other things we need to be really careful about are some of the initiatives that might have an effect. The one that comes to mind is I-97 which could have a tremendous effect on what funding is available and particular state dollars that are available. There are a lot of issues out there that can affect our funding sources and what our capabilities are. Our primary concern is maintaining the state system; that is our primary focus. That also includes the secondary road program which directly affects the counties too. As it moves further down from the counties to the cities, they are going to have to look around their tables to determine what they can do for additional funding because I do not believe the federal and state gas taxes, even if you were to raise them, would come anywhere close to meeting the funding needs we have in our state with the growth that is taking place here.

Chairman Kennedy said the Commission drove Mill Creek yesterday down through Divide and Dewey and the area along there. Is the majority of traffic you see both in summer and winter sportsmen, campers, fisherman, snowmobiles? Is that a lot of the traffic on Mill Creek? Larry Sturm answered yes a lot of it is. Also a lot of the traffic is coming out of Idaho going up towards Helena. So it is not only sportsmen and campers and a lot of it is seasonal, but we did some traffic counts on it awhile ago and probably about 1/3 of the cars that travel that road are from out of state or out of this area.

Chairman Kennedy stated that he was looking at different areas where there may be some revenue and one of them is maybe going back to Fish, Wildlife and Parks and asking for some dollars because I did notice that a large amount of camper trailers and the number of people along that beautiful area. In thinking out of the box for the dollars, I think the one thing you've heard today is that MDT doesn't have a big pot of money to just dole out dollars. From what I've heard today, we will take your request under consideration and see how we can work with you and help you with some solutions on it. I think the other piece is the congressional offices – I think that Senators Baucus and Burns have heard that we are in need of some help to get this road repaired. We can also help you in looking for some of these dollars. It is not going to go away and it is probably not going to be fixed this summer, but it is something that needs to be done.

Chairman Kennedy asked Larry Sturm about the areas that were marked on the road. Are the markings every year or two where you try and get something done? Larry answered that those markings are from the local bicycle club who has a bicycle race every year. They go

along and identify some of the bigger potholes that will affect the bicyclists to make them aware of the hazards.

One of the Commissioners said one of the reasons he suggested that Anaconda-Deer Lodge ask for some congressional help was because at the Red Book meeting last year he realized that if we did Mill Creek under the current formula we have now and Anaconda set Mill Creek Road as a priority for the next three projects, it would take twenty one years to get that road done. If you see the condition of that road, I can't imagine what it would be in twenty one years. Some of that road is one year away from failing. It was partly my suggestion they ask for an earmark because I honestly and truly feel that road deserves attention. I also know our fiscal resources aren't there under our current funding formulas.

Beaverhead County – Weed Control

Garth Hougland, Beaverhead County Commissioner, District Three addressed the Commission. I represent the Big Hole District. Our County Weed Board meets in various parts of the county throughout the summer. One week ago Sunday we met in Wise River and several of the local land owners in the Wise River area approached us over a concern over noxious weed management on the newly reconstructed portion of Hwy 43 from Wise River up to the Dickey Bridge area. The land owners stated they had contacted the MDT Maintenance Department asking when weed spraying was going to occur on there. They are concerned primarily with knapweed moving from the right-of-way into the private land. I had anticipated several of them attending this meeting but they are haying now so I agreed to bring that issue to you. Apparently MDT issues these to a private contractor who travels around the state treating areas – is that correct?

Deputy Director Currie said he wasn't sure about that. One of the Commissioners stated that it varies and with one exception we don't do our own spraying. We are doing it in Lewis and Clark County. Typically we provide funding for the County Weed Boards to do it and I thought we did that with Beaverhead County.

Garth Hougland said he was familiar with that. We have a very active group at Wise River Road; we hold five different spray events in the Wise River area. All the county equipment comes in and the local landowners work together. But local landowners were advised that the county could not do that because we do not pay Davis-Bacon level wages to our weed control people. So our county crew has not been on that reconstructed portion. We do Hwy 43 right-of-way. Apparently there is about a three-year window where the state goes out to bid with a private contractor on reconstructs but the concern of the landowners is that there has been no noxious weed control activity there. They couldn't get any answers out of the Butte District and I'm simply the bearer of the message.

Deputy Director Currie stated he would find out what was going on and get it sprayed. We will get that section sprayed.

Highway Worker Wages

Representative Keene addressed the Commission. A couple of issues I face in the local area, as I left Butte and drove past the pulp plant, hopefully they are going to do something with the bridge decks that cross the railroad over there because next year we will be seeing the rebar. So I hope those bridge decks are going to be taken care of. One of the other issues is, I work with the operating engineers and we do a significant amount of highway work, and in Montana the prevailing wage for highway work is that we determine the prevailing wage for highway work. We are the only one in the United States that does it this way. We do a survey of both union and non-union contractors and get them to sign off on a petition. We've done that for six-seven years now. The problem occurred because the highway workers hadn't had a raise for about seven years. We are doing a survey right now and whether we get it put together or not will be determined in a couple of months. I think we are going to have to take a look at that situation down the road. For highway workers Montana is a training state. We are training highway workers here to work in other states. Ask the contractors. In the last six months I've sent workers to Washington because they make \$11 more in wages and fringe benefits in Washington than in Montana. That is going to increase. We can send them to Idaho which is about \$10 per hour more. Even our contractors said it was a different world in Idaho. There is an issue there that has been developing over the last ten years and will continue to develop as other states try to get the best construction workers out there.

We are in an interesting situation in the construction industry, not only for the highway work but for the heavy work. In the case of the heavy work, in Montana they make more money doing heavy work such as COP Construction or someone doing pipeline or street construction, you are going to have your highway workers who want to stay local move over to those companies. So we are in a competition and I think somewhere down the road, the Department of Transportation and the Highway Commission is going to have to take a look at how we do this survey. It is working so far, but it may not be working in the future and I wanted to bring that to the attention of the Commission. I think we will be having discussions with the AGC and some of the contractors out there who are starting to recognize it because they are the ones who feel the pinch most of all.

Another issue is knapweed. The state ought to cross Boulder Hill because there is a whole bunch of knapweed off to the side, and I think we could be doing a lot better at spraying knapweed. They are in bloom now. Maybe we could share some of the weeds with other states too?

Mill Creek is an interesting situation and since I'm on the oversight of the Department of Transportation and I'm very in tune with what is happening on the legislative front for roadwork in the state. Mill Creek is an interesting thing – there were going to be bills introduced that were going to do something different. We can do something. When I hear we can't do something, Mill Creek has been talked about for the last three sessions. I'd like to throw one out to show you what can be done. Look at the Dave Lewis Memorial Highway which will run to Marysville. It is going to be paved. Dave Lewis took it on as a project and they are getting it done. It is going to be a nice road. Was that in the system? No. I think there are things this Department can do and has done in the past when the pressure is put on. Francis Bardanouve used to love this area down here; he used to call it Beaver Bowl. Maybe we have to put the Beaver Bowl group back together – those Senators and Representatives who represented this area and put a little more pressure from different

areas to get the job done. I'm from Butte and I'm the only guy here. They should have somebody from Mill Creek here to push this project. So maybe it will be my goal to put that coalition back together to create that push for the Department. Something can be done. Twenty years? Give me a break! We are responsible for this area. I sat through these meetings and what is one primary thing we are supposed to be talking about? Highway construction on the federal and state level and economic development and that was talked about regarding that road too. There is a way to tie the economic development issue into that road.

Deputy Director Currie pointed out that even knapweed isn't growing at the Rocker Scale. We decided that at the Rocker Scale maybe AstroTurf might work. I want to make a quick comment on Marysville Road so that everyone knows what happened there. Marysville Road is in fact underway and will be rebuilt but there are no Department funds going into that. It was done strictly with earmarked funds. It is true that Dave Lewis was the catalyst for that but it wasn't earmarked from Department funds. So in terms of pressure on other Department – can we support an earmark for Mill Creek Road? Certainly we can. We have no problem with that as long as it doesn't take away from overall highway funding which Marysville Road did not. I don't want anyone to think that the Highway Department rolled over and put money on an off-system road because of political pressure; we didn't do that.

City of Kalispell – Kalispell Bypass

Commissioner Howlett stated that prior to my departure from Anaconda I received a fax letter and was asked to present it on behalf of the City of Kalispell. It is addressed to Mr. Kailey.

U.S. Highway 93 Bypass has been a concern of this City since 1940. Your efforts in planning and pursuing this bypass coupled with the efforts of our U.S. Senators and Representatives to obtain federal funding, brings this project to a construction phase and these efforts have been greatly appreciated by the entire community. There have been many comments concerning how best to utilize the limited funding and the TAC has tried to make logical phasing recommendations to MDT. The undersigned from the Kalispell City Council also wish to express their concerns and recommendations for the Bypass phasing.

The Bypass concept started in the 1940's to take trucks and regional traffic around the downtown business district. Kalispell has changed since that time and there are growing traffic concerns at the intersection of U.S. 93 and Reserve Drive. However, the need to take truck and regional traffic out of the downtown Kalispell is the reason the Bypass planning began and must stay the central focus of everyone's efforts. We understand that the Bypass does not function until the entire project is completed. By beginning with the southern phase, it does take some of traffic out of the downtown while the northern portion does not.

We strongly urge you to begin construction of the southern portion of the Bypass while at the same time constructing the Reserve Drive connector in Phase One construction. Your assistance and favorable consideration would be greatly appreciated. We appreciate the partnership we have with the Department of Transportation and we look forward to working with you to acquire the additional funding needed to complete the project.

Sincerely,
E. Kennedy, Mayor

I present that at Mayor Kennedy's request. I think it kind of lends a little bit of credence to the previous discussion about the shortages and some other history. Certainly we are not in a position to do anything with this letter other than accept it and think about how we address the concerns raised in it. So I present it.

Chairman Kennedy stated that it would be passed on to Director Lynch to get response back to the Mayor of Kalispell. Director Lynch gave some history of the project. We've got about a \$76 million project going on there and we've got roughly \$30 million in funding. It was decided since we have \$30 million earmark funding we would use that rather than wait until we collected the entire amount to start that project. That project is suitable for phasing and everybody had different ideas on how the project should be phased. So from the very get-go we told the community that the community would determine how this project was going to get phased and the Department of Transportation was not going to dictate how the phasing would go. We worked with the cooperation of the TAC in Kalispell who determines transportation issues in the Flathead Valley area, the City Council, the County Commissioners, and the general public as to what criteria would be used to determine what the phasing would look like and what portions of the project would be done first. We went through that process and we had about 10-12 different phasing scenarios and ended up with two phases that were very similar according to the criteria to determine which should be number one or number two. The north section would be from Highway 93 down to U.S. 2 and then onto Foy's Lake Roadway. The south section is from south of Kalispell down by Gardner Auction just this side of the Somers Interchange to Highway 2. Either phase can be built with the dollars we have available now. The north phase fared better in the criteria than the south section, however, they are very close. There have been some meetings discussing the criteria and the subjectivity of the criteria. The public comment period ended yesterday, so we will be gathering all the other public comments as to the phasing and the criteria and the method we used to determine the phasing to come up with which is the best way to go – either the north or the south. In the end it will be a decision made by that community. The City and County elected officials who represent that community will weigh in considerably in that. Before they weigh in on it I want to make sure we all understand there are pros and cons of doing either section. We want to make sure that before that decision is made that the decision-makers and the community understands what some of those implications are. Our hope is that we will eventually end up with additional earmarks for the project and the project will be completed. I wanted to make sure you as Commissioner know that we made the decision early on with the community that they were going to be the primary decision-makers on how the phasing worked. So that is where we are at right now. We do have the meeting scheduled to go over the final comments that came though. The NEPA process is done. FHWA signed off on it, so we have a green light on the project and we can get started on building it. There has been a considerable amount of work and effort that has taken place both by the Department of Transportation and the Flathead community to determine where we should spend the money first.

Commissioner Howlett asked about a comment Representative Keene made regarding the bridge decks. Are the bridge decks he talked about in that structures project we have going in Butte? Loran Frazier answered yes. There are several bridges in Butte that we are rehabbing and retrofitting to seismic and part of that is to repair the decks. Commissioner Howlett asked where the project was at. Loran Frazier said they are starting construction of the cross-over's within the next month.

Agenda Item 9: Access Control

U.S. 93 Access

Art Mengels, from Dillon addressed the Commission. I'm representing my father Walt Mangels south of Polson on Hwy 93. He has a farm along Hwy 93. I moved to Dillon nine years ago. I'm trustee for my father's property. He turned 89 the other day and his mind is still pretty sharp but I told him I would take care of this meeting. The Highway Transportation Commission still has not given us a workable and safe plan for access to Walt Mangels farm south of Polson on Hwy 93. We must have a full movement easement with left-hand turns approximately one quarter mile north of the junction at Hazmore Road. There is also another property owner that could use this easement to service his irrigation pumps at this site also. The current temporary easement which was the end of the other project has worked quite well. Even though it is narrow between the lanes, it still has worked quite well for us, even with the traffic squeezed down at that point into the two lanes, it still has been working. So that proves that on the new project that a full easement would work there. It would be the safest alternative and probably the most cost-effective especially since you are \$33 million over budget on that project. If you cannot provide this easement, the Highway Department will have to put in a Frontage Road on the south on the existing highway right-of-way. You have enough right-of-way to do that. I'm sure I'll get an argument on that saying you don't have enough room but there is plenty of room there because you have quite a bit of property on the east side. You have all this (referring to graphic) which would accommodate your turning lanes for the intersection, and there would be room ... we have used that borrow pit for years as travel for farm machinery and slow moving trucks. You would still have room for your bike path along the edge and the access road. It wouldn't have wide borrow pits or medians but when you get into other tight situations, you don't have that like when you are up against a river or rock cliff or have to go around something. You squeeze it down so you don't have all that room. Those are the only options that we consider viable.

Highway Patrolmen have told us the other options are not safe or practical. There is the option of going clear around the section which would add three and three-quarter miles for slow moving farm equipment and loaded trucks on a very busy road. That would mean going passed the landfill collection site and clear around to Caffrey Road and turning to come down here (referring to graphic). That adds a lot and is a lot of unnecessary and dangerous travel. The other option that you planned was turning right and going north on Hwy 93 and coming clear up past the Chevy dealership up to this major intersection because the big semi's can't make this turn and then turning by this Jehovah Witness church then coming behind the city garage and back on here – and that is not workable either because you've got lots of traffic here and it would just hold up traffic with the slow moving vehicles.

Mr. Mangels said there had been talk of a stop light being put in at this intersection (referring to graphic). Is that in the works? Do you know when that will be done? Loran Frazier said it would be done with the next project – the Spring Creek project. Dwane Kailey stated that we do have a signal planned for that intersection as part of the Spring Creek to Munsinger

Trail Project due to be let by the Department later this winter. Chairman Kennedy asked what they had planned for access into their place. Dwane Kailey stated that he would address all the issues as soon as Mr. Mangels finished his presentation. Mr. Mangels stated that light will slow down traffic. He asked what the speed limit would be through that mile. Dwane Kailey stated the existing speed limit on Hwy 93 is 65 mph and they would not be changing that. Mr. Mangels felt that would help the situation for the traffic going up that quarter mile or getting onto the Frontage Road. A light would make is a lot easier also.

Mr. Mangels said that in the past few years the potato storages on my father's property have not been used to full capacity but now they are going to be renting them out to other growers so they will be used to full capacity. That means up to 200 farm trucks, single axle and tandem axle trucks, will be exiting in August and September and October through the harvest season and up to 80 truck-trailer semi units in the spring. It will start in February and goes through March, April, May, and a little bit in June. Before there was a feeling it was just a few trucks and you could do something temporary but we have to make full use of those buildings and potato storage are quite expensive buildings and we are going to put them to use. We already have two different people who want to rent them and we will be using them to full capacity. He asked if a schematic drawing existed for that intersection – where the old project quit and where the new one is taking off. Dwane Kailey said he had the details for the Spring Creek to Munsinger project with him and he would be glad to show them to him. Mr. Mangels stated that his Dad was caught between two projects and may have even been left out of the design stating that it ended north of his driveway. We have never seen any plans as to what they are going to do. If we hadn't raised hell last fall we wouldn't have had a way to get in there. It is very important to us.

Janice Brown, FHWA stated that in the past she participated in meetings that relied on the recommendations from the Technical Advisory Committee (TAC) and the Policy Oversight Group (POG) and we pretty much agreed with the POG and TAC in their recommendations, which was to provide alternative access. So we agreed their recommendations and we have a member on the Technical Advisory Committee as well – Craig Genzlinger.

Dwane Kailey went over some of the history of the project. This is the Evaro to Polson project. The project was originally initiated in the 1980's. It had quite a bit of challenges associated with it, however, through the process one of the first things MDT, the Tribes, and Federal Highways agreed to was that access control along this corridor would be a huge benefit to safety. We were able to set up an Access Control Management Plan for this corridor which established an Access Control and Exceptions Committee. Through the process we wanted to keep the communication going so we also worked through the Technical Design Committee as well as the Policy Oversight Group to review any decisions that were made or appealed through the Exceptions Committee. We presented that to the Commission at the last meeting and you formally endorsed that proposal and modified the roles and responsibilities. Mr. Mangels' request did go to the Exceptions Committee, it has gone to the Technical Design Committee and it has gone to the Policy Oversight Group, and now the final appeal as come to the Transportation Commission. Now to step back and make sure everyone is aware of the location (referring to graphic) this is the top of the hill right before you drop down into the Polson area. We've designed a divided four-lane system all the way from just north of the Ronan, Spring Creek Road, all the way up to just south of

Polson. This entire corridor is a divided four-lane system. That was initiated through the MOA and endorsed through the Re-evaluation of the EIS. With this design we have lended full-movement access either to county roads and/or frontage roads that we have built combining multiple accesses for properties. When Mr. Mengels brought his request to us we looked at the options available. One option was that we needed something immediate for his potato trucks coming in this spring, and another option was a permanent access. As Mr. Mengels alluded to, his property is right at the tie in of two separate projects – Munsinger to MT 35 project which officially starts just past the south property line of his property and then the Spring Creek to Munsinger project which ends at the same point. So he is kind of in the flux of those two projects. We've got established on the roadway is that the taper begins at his south property line. The TAC looked at a temporary access to allow them to cross the median here (referring to graphic), which is a filled median at this time, and use a joint-use approach with his southern neighbor, Mr. Solomon. They could cross here and then access his property. When we construct out the Spring Creek to Munsinger project, this will become a divided median with no crossing in it. So we then began to look at future options for Mr. Mengels. One was to provide access via the county road, so he could turn off onto Reservoir Road and go down to the county road and turn west and come back up to Caffrey Road here and access U.S. 93. I understand that could be an impact to him.

We also explored other options; one was working with Mr. Solomon to provide a frontage road off of Reservoir Road. One issue we looked at was that you couldn't provide that frontage road within our design standards without acquiring right-of-way from Mr. Solomon. The reason is that we have to provide what is called a "jug handle" – you have to get the trucks far enough away from the intersection so they can make a left onto the county road and then be perpendicular out of the other direction of travel and perpendicular to the intersection. So we would have to jug handle it in like this (referring to graphic) requiring right-of-way from Mr. Solomon who is not willing to sell us that right-of-way. We looked at another option with the railroad. We went to the railroad and asked them about securing an easement on the backside of this property allowing him to use Munsinger and Reservoir Road. Again they were unwilling to sell us or convey us an easement to allow us that frontage road. That left us with only two other options available. Up here we built a frontage road tying in accesses called Commerce Drive. It goes in behind AT&T Boat Repair and the Chevy Dealership at the top of the hill. We looked at having Mr. Mangle come to the north and use a provided left-turn bay to turn left onto Commerce Drive and proceed back to Caffrey Road and make a left onto Caffrey Road, come out to U.S 93 and then right onto U.S. 93. to his property. We are talking about large trucks – semi trucks. The approach to them is still there and they can right-in and right-out. This is for larger farm equipment as well as the heavy potato trucks. The personal vehicles could essentially make a u-turn here if they are north bound on U.S. 93 and they want to access his property or use Commerce Drive to make a u-turn and proceed back to his property, very much like we are asking many of the residences along this corridor to do as well.

We approached Mr. Mangels about providing an access as well as a frontage road because he owns up to Caffrey Road. We talked to him about providing an access and a frontage road on the front of his property down along U.S. 93 and he was unwilling to pursue that. We were told that took too much of his property and he wasn't willing to do that. Based on that, that was TDC's view and we made that recommendation to POG. The three options are using the existing county road, providing the U-turn via Commerce Drive, or an access

off of Caffrey Road. We presented that to the POG and Mr. Mangels attended that meeting and they stipulated they were not accepting an access off Caffrey Road, they weren't accepting to the county road use, which left them essentially the use of Commerce Drive.

One issue I want to address is that Art mentioned he was not aware of this project or the plans for this project. As many of you are well aware, this project has had extensive public involvement – we sent out newsletters constantly, we had many meetings while redoing the re-evaluation. These projects have had extensive public involvement. We did have a taking on Mr. Mangels property, so we had right-of-way negotiations with them and they did sign the right-of-way agreement, so they were aware of or should have been aware of what the taking was as well as what their access was going to be. There are some tribal Council Members here as well and I'll turn it over to them if they would like to speak.

Ron Trahan, Representing the St. Ignatius District on the Tribal Council addressed the Commission. I also sit on the POG for this project. This is the second time I've heard the concerns on this. The Tribe itself has worked with the Department to get this road put in and make sure everybody knew what was going on. I know they have been real good about getting the word out about what is happening. We had members concerned about their access and we've had to deal with those people. Those have been on trust property, private owned property and you've had to deal with them. They've kind of come around to the idea that what we've done is safer once we explained it to them. I can't see changing a whole project especially with the options given to Mr. Mengels. We had to give up right-of-way on a lot of our property just to get that road through there. We've got no more land down there so that is a big deal for us. I think we've done a good job with this road and I've had a lot of good comments on it. I feel for you but I think I'm not really in agreement with you.

Commissioner Howlett stated that this was the last stop for this particular issue in this process by the rules we've established. I've found nothing compelling that would give me any reason to question the recommendations of the Technical Design Committee or the Project Oversight Committee. I don't think anything has been presented that would say this Commission needs to reverse that decision.

Commissioner Kennedy stated that as he deals with his county on roads and accesses, the number one thing we've been looking at on highways is that left-hand turn lane because it is a real safety issue. U.S. 93 has been a real safety issue with the amount of traffic on Hwy 93 and people cutting across 93. With the number of trucks you have talked about, and I understand the access and people haven't been happy, but safety is a big concern of the Department. One of the things we have looked at is the right-hand turns. The Department looked at doing a frontage road and coming onto your property and building a frontage road into your place to give you a left turn access at the intersection and then come back into your place, why is that not feasible to you and your family?

Mr. Mangels stated that there were two issues. One is that we would have to build it as I understood it, but if the Department is going to build it then maybe it is feasible. We can't afford to build it. The problem is that 95% of the traffic is coming from the south, so if you have the easement up here, you still have this farm equipment and loaded farm trucks, which can't get up to speed, going clear up this mile holding up traffic and then they still have to get in the left hand turn lane up here – either here or on Commerce that is still a dangerous

turn in itself. You've held up all this traffic getting on and if it is a wide load you're holding up both lanes. Then you have to get over into that lane.

Commissioner Kennedy said if the Department was to put in the frontage road you said you would look at that? Mr. Mengels said possibly. He stated it made more sense to negotiate with Mr. Solomon to get a frontage road through his property. Chairman Kennedy asked if the Department was going to put in that frontage road. Dwane Kailey stated they had approached Mr. Mangels about putting an access in there and they did not want to pursue that option at all. So we haven't investigated that very far. He stated the one concern was that frontage road was going to be substantially long. He stated there was an option that would cost the taxpayers and the Department nothing and that would be to use Commerce Drive. It does provide a reasonable access or a reasonable u-turn. He stated he was a little concerned about paying for that access because the Department does have a reasonable access.

Mr. Mangels stated the jug handling of the trucks was his concern in the first place. He asked if it would be an option to purchase a corner from Solomon to get that turn made and then come back onto the existing right-of-way.

Commissioner Kennedy stated that this was a request to come and speak to us today and bring his appeal. He asked if this was the formal appeal today or if it was just a presentation. Deputy Director Currie stated he believed this was the formal appeal. Mr. Reardon concurred that it was the formal appeal and stated the Commission did not have to act on it today. If they wanted to request additional information, it was in their authority to do that. You can confirm what has taken place, you can change it, or you can ask for additional information and bring it up at the next meeting if you choose to do so. He stated he had been sitting in the back and listening to questions being asked about what is possible, so if you want additional information it is within your power to ask for it and delay making a decision. But this is the formal appeal.

Chairman Kennedy asked Dwane Kailey what his timeline was. Dwane Kailey stated that if there were going to be a change made, it needed to be made with the Spring Creek to Munsinger project which is due to be let in December. To get the plans modified, we are on a short time line. I guess I would like to have a decision within the next couple of months.

Chairman Kennedy stated that from what he was hearing today the options that have come forward is the option that is the most feasible. One of the options mentioned was coming back onto his property and what I've heard from Mr. Mangels is that might be an option. Is it worth delaying this to figure out if that is going to work for him? If it doesn't I hate to waste any more time and we can go forward today, or if that is going to meet some of his needs ... I guess the Mangels family is going to have to come forward and say they will give you access. I don't want to delay things if it is not an option at all. If it is not an option at all I'm ready to go forward on the appeal today.

Commissioner Howlett stated that this process has been going on a long time and the deliberations over access to personal properties is one that will never be universally satisfying. There is always going to be somebody who says they needed a better access. The fact that this one was appealed to the Commission doesn't make it any more important. I

think the Department has provided recommendations that are sound, they are not entirely acceptable obviously to the Mangels family, but I think they are conscious of cost which we need to be with that project. I don't see any reason to ... I'm not wanting to see this thing go back into some negotiation. It has been through two committees that were established as part of the process. I just think we need to reaffirm the position of the people who have provided the recommendations and Mr. Mangels has his options at this point.

Mr. Mangels asked to make a comment to the Commission. Everybody has an access issue but to me some of them are shorter distances. Jack Lake has a short circle around. We are talking a whole mile. If the Highway Department is willing to do the frontage road, we will consider that. It still means we have to come up to here (referring to graphic) but at least we can get out to the north without having to make a u-turn and go around a section. I just wanted to comment that my Dad sold 40 acres to the railroad and 8/10th to the highway so they would have room to make a turn. He sold to the railroad so that everybody in the community, the county, the tribe, and Highway Department would be happy about dead-ending at the railroad tracks, and they had a bike path and he sold it too damn cheap. It helped the community greatly and you guys just sit here and say that is the way it is going to be. He is pretty damn upset that he can't get a little consideration in return.

Commissioner Howlett made a motion to accept the staff recommendation and deny the appeal. The motion was seconded by Griffith.

Motion passed.

Agenda Item 10: Upcoming Commission Meetings

Director Lynch said that he was in Seattle and driving in the Seattle traffic, and noted that when you give proper distance for speed everybody jumps in front of you. Congestion is really relative and the more he has driven on the Seattle roads, the more appreciative he is for our two-lane roads in Montana. Chairman Kennedy stated that they had talked about the opportunity to look at holding the Commission meetings every two months, with six meetings a year. Director Lynch said he felt that was really a good idea and would work really well. Deputy Director Currie said he agreed and suggested to Chairman Kennedy that they may want to look at holding them every other month on the day of the letting so the Commission could participate in that process. Director Lynch said he felt that was a great idea and said he fully supported that. Chairman Kennedy asked Lori to come back with dates for us at the next Commission Meeting on September 14, 2006. Then we can look at those dates with all five Commissioners. He asked Lori if she could get those out in advance. There would be a possibility that if they needed to come back for a special meeting in between, the Commission could do that. Commissioner Howlett said that he supported every other month with the exception of Red Book.

Deputy Director Currie stated that the September meeting would be a two-day meeting because part of the meeting was a work session to do to prep for the Red Book process. He briefed the Commission on the fire up St. Mary's on Hwy 89. The fire caused some fairly significant damage to the infrastructure. The Department is still in the process of evaluating

that but will likely need to get a meeting together rather quickly to do an award. About a mile and a half of guardrail is down and a fairly steep fill slope was devegetated and if the Department doesn't get some mat down there will be problems this spring. Something needs to be done this year. The Department was just able to get in there today to do an assessment of that full stretch. The target date was noon tomorrow to get that portion of the highway from St. Mary's over to Cut Bank reopened. Chairman Kennedy suggested going ahead with a voice vote over the phone or email so the process would be sped up on that project.

Director Lynch said that the Department understands the sensitivity of that roadway even with the short time it was closed for those businesses along there. Whatever is done will be with the understanding of keeping the road open for the public to drive on. It may be inconvenient for them but it won't be closed. That is what we are shooting for. Mr. Currie said that was correct and noted that the area where the guardrail was missing had some very steep slopes but it was a three-lane and the Department would be coning that off to keep the public away from that guardrail. Mr. Currie state there was a lot of concern about the segment of road from Duck Lake Road down to St. Mary's. He was asked about it at a recent meeting and during the meeting they had to close the road again when they re-ordered the evacuation of St. Mary's. He noted it had been a pretty fluid situation up there and been frustrating for some of the business owners because the road had been closed off and on.

Commissioner Griffith asked Jim Lynch about a communication he received regarding speed zones around Cook City. That communication had been given to Lorelle Demont to pass on to Director Lynch. Director Lynch said he had given that to Duane Williams to look at. There was some confusion because part of the road was in the Park which the State of Montana doesn't have any control over. There is a section Duane is looking at that the State may have some control over. The Commissioner said he had received a call asking about it. Chairman Kennedy said he had talked to Bev and she was making that inquiry to National Parks knowing that one section belonged to them. The Cooke City Chamber of Commerce was making that request. Deputy Director Currie said it was important to remember that section of highway from the border down to Silvergate to the Park, even though it is not inside the Park, is under the jurisdiction of the Park. We can go in and do a speed study but when it comes to the actual signing it is Park's Service jurisdiction and more importantly enforcement is a real issue down there. My understanding is that the Park Service does very little enforcement outside the boundaries of the Park and the Highway Patrol almost never goes down there. I believe the Sheriff goes down there during incidents so enforcement is going to be a very important issue with anything that is done relative to speed down there. Director Lynch said they also sent our MCS vehicles down there and their visibility will help with the situation too.

Chairman Kennedy asked that Sandi come back and talk to the Commission on bonding and said he would like to see the Laurel project up and going in 2007 but we still haven't got that done, so I'm hoping we could have an update at the next meeting. Director Lynch asked Lori to make note of that to make sure it is all pulled together for the next meeting.

Commissioner Howlett had requested at the Red Lodge meeting to have a discussion on Memorial Markers on the Interstate System and the rules pertaining to that. He repeated that request.

A thank you was given to Commissioner Griffith for dinner last night, it was very nice. Commissioner Griffith also gave the Commission a scenic viewing of a number of roads in Butte Silver Bow and Anaconda-Deer Lodge Counties.

Commissioner Howlett moved to adjourn the meeting. The motion was seconded by Griffith.

Motion passed unanimous.

Meeting adjourned.

Bill Chairman Kennedy, Chairman
Montana Transportation Commission

Jim Lynch, Director
Montana Department of Transportation

Lori K. Ryan, Secretary
Montana Transportation Commission